IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.526 OF 2002

Kiran Gopalrao Ghatage & Anr. .. Petitioners
Versus
Vanechand Hirachand Rathod
and Anr. .. Respondents

Mr.A.Y.Sakhare, Senior Advocate for petitioners
Mr.S.S.Pednekar, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 16th December 2005.

P.C.

. Heard Mr.Sakhare, learned Senior Advocate for petitioners. After hearing Counsel for both sides, in my view, no interference is necessary with the order of the Revisional Court, restoring complaint preferred by first respondent to the file of Judicial Magistrate, First Class, Kolhapur for disposal in accordance with law.

2. From a perusal of the order passed by the Magistrate, it is apparent that he has proceeded to dismiss the same on the ground that complainant has not remained present. Power of learned Magistrate in that behalf having been set out in the order of the revisional court and the opinion as well as view of the learned Additional Sessions Judge that the Magistrate has no power to dismiss the complaint for default, does not call for any interference in exercise of jurisdiction of this Court under Article 227 of the Constitution of India, more so, when the same does not appear to be vitiated by an error of law. Petition dismissed.

(S.C.DHARMADHIKARI, J)